

May 13, 2019

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

RE: Woodley Park
Forest Conservation Variance
Tracking #02-19-2975

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on April 9, 2019. The request seeks a variance to remove nine (9) specimen trees in order to construct a 13 lot residential subdivision on a 3.7-acre, partially forested property. The nine specimen trees to be removed include two trees in poor condition and two other nonnative species. The native specimen trees in fair to good condition to be removed include: a 33-inch DBH tulip poplar, 31-inch DBH red maple, 58-inch DBH silver maple, a 37-inch DBH silver maple, and a 31.5-inch DBH silver maple. Six of the nine trees to be removed are outside of forest. There are eight other native specimen trees on the property in fair condition or better proposed to be protected in a Forest Conservation Easement.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The petitioner is seeking to develop a 13-lot subdivision of single and semidetached dwellings and associated infrastructure. Given that the site could be developed at a much lesser density and avoid the specimen trees, denying this

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variance would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to the location of the number and distribution of the specimen trees across the site rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of residential development similar to that proposed on the subject property. As such, granting the variance to allow the development of the proposed 13 lots will not alter the essential character of this neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Although the project will impact approximately 3,640 square feet of Forest Buffer Easement to connect the proposed development to public sewer, that impact will be adequately mitigated onsite in accordance with the companion alternatives analysis approval for this project. Moreover, no direct impacts to any wetlands or streams are proposed. Finally, the break-even point of forest will be protected onsite in a Forest Conservation Easement. As a result, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The variance arises from the presence of specimen trees across the site. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although nine specimen trees are to be removed, 0.8 of the 1.2 acres of forest, including the other eight specimen trees onsite, will be protected onsite in a Forest Buffer Easement and/or Forest Conservation Easement to be recorded in Baltimore County Land Records along with the required Protective Covenants. Therefore, we find that this variance is consistent with the spirit

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and intent of Article 33, Title 6 of the Baltimore County Code and this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. Removal of the three native specimen trees outside of forest and in fair condition or better shall be addressed by paying a \$6,588 fee in lieu of mitigation. A check made payable to Baltimore County shall be received by EPS prior to approval of any permit. No mitigation is required for the nonnative specimen trees, those in poor condition, or those within forest to be cleared in accordance with an EPS-approved forest conservation plan.
2. The following note must be on all subsequent plans for this development project:

“A variance was granted on May 13, 2019 by the Baltimore County Department of Environmental Protection & Sustainability to remove nine specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met including payment of a fee in lieu of mitigation, protecting the other eight specimen trees onsite, and retaining 0.8 of the 1.2 acres of forest onsite in a Forest Conservation Easement.”
3. This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County’s Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the parties responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/ges

c. Ms. Marian Honeczy, Maryland Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Property Owner's Signature

Date

Property Owner's Printed Name

Contract Purchaser's Signature

Date

Contract Purchaser's Printed Name